

**CALIFORNIA COASTAL COMMISSION**

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Commission Action:



# Th22a

## **STAFF REPORT: APPEAL** **NO SUBSTANTIAL ISSUE**

**LOCAL GOVERNMENT:** City of Redondo Beach

**LOCAL DECISION:** Approval with Conditions

**APPEAL NUMBER:** A-5-RDB-04-261

**APPLICANTS:** Michael & Kimberly Doyle

**APPELLANTS:** Robert & Linda Moffat, Jill & Tony Pietrini, Kevin Farr, and Shannon Gyuricza

**PROJECT LOCATION:** 801 Esplanade, City of Redondo Beach, Los Angeles County.

**PROJECT DESCRIPTION:** Appeal from decision of the City of Redondo Beach approving Local Coastal Development Permit No. 04-01 for a second story addition to an existing one-story single-family residence.

### **SUBSTANTIVE FILE DOCUMENTS:**

1. City of Redondo Beach Certified Local Coastal Program (LCP), 7/22/80.
2. City of Redondo Beach Local Coastal Development Permit No. 04-01 (Exhibit #6).
3. Coastal Development Permit 5-03-008 (807 Esplanade).
4. Coastal Development Permit 5-01-251-W (814 Esplanade).
5. Coastal Development Permit 5-03-016-W (900 Esplanade).
6. Returned Coastal Development Permit Application 5-03-527 (Doyle, 801 Esplanade).

### **SUMMARY OF STAFF RECOMMENDATION**

The staff recommends that the Commission, after public hearing, determine that the appeals raise **no substantial issue** in regards to the locally approved development's conformity with the City of Redondo Beach Certified Local Coastal Program (LCP) and the public access policies of the Coastal Act. The local approval of the proposed project does not violate any view protection provisions of the certified LCP or the public access policies of the Coastal Act. Therefore, the Commission should reject the appeals as they do not raise a substantial issue, and the local approval of the residential addition should stand. **The motion to carry out the staff recommendation is on the bottom of Page Four.**

## **I. APPELLANTS' CONTENTIONS**

Six appellants have appealed the Redondo Beach City Council's June 15, 2004 approval of Local Coastal Development Permit No. 04-01 (Exhibit #6). Local Coastal Development Permit No. 04-01 permits the applicants to add a second story to an existing one-story single-family residence (Exhibit #4). The project site, situated on the seaward side of Esplanade<sup>1</sup>, is a 3,000 square foot blufftop lot that overlooks the public beach below (Exhibit #2). The proposed second story addition would reach 23 feet in height above the grade of the Esplanade sidewalk that abuts the eastern side of the project site (Exhibit #5). The existing house extends about thirteen feet above the sidewalk elevation. The northern property line of the project site abuts a City-maintained stairway that provides public access down the bluff face to the sandy beach, about eighty feet below the project site (Exhibit #2).

The project site and the abutting public accessway are situated at the western terminus of Knob Hill Avenue, a public street that descends Knob Hill as it approaches the site from the east (Exhibit #2). As one approaches the western end of Knob Hill Avenue from the east, there is a public view above the roof of the existing one-story house that consists of the sky and part of the sea. The appellants are objecting to the proposed second story because it would block more of this public view than is currently blocked by the existing single-story house.

All of the appellants contend that the local approval of the project is not in conformity with the certified City of Redondo Beach LCP. Specifically, the appellants assert that the LCP protects the public view of the sea that would be affected by the proposed second story addition. Another contention is that the local approval does not conform with Section 30251 of the Coastal Act because the proposed project would adversely affect a public view of the ocean. Additionally, the Pietrinis contend that the City failed to make the required coastal development permit finding that the proposed development, located between the first public road and the sea, is in conformity with the public access and recreation policies of the Coastal Act. Kevin Farr's appeal, in addition to all of the above contentions, asserts that the City failed to comply with the requirements of the California Environmental Quality Act (CEQA) when it approved the project.

## **II. LOCAL GOVERNMENT ACTION**

On March 23, 2004, the City of Redondo Beach Planning Commission held a public hearing for the proposed addition to a single-family residence. After lengthy testimony regarding the proposed project's effect on the public view and the relevant view protection policies of the City's certified LCP, the Planning Commission approved Local Coastal Development Permit No. 04-01 finding that its approval of the proposed second floor addition would not violate any provision of the certified LCP.

Six individuals appealed the City Planning Commission's action to the City Council. On May 4, 2004, the City Council opened a public hearing on the matter. The public hearing was continued to June 8, 2004. On June 15, 2004, the City Council denied the appeals and approved of Local Coastal Development Permit No. 04-01 for the proposed second story addition (Exhibit #6).

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<sup>1</sup> Esplanade, an eighty-foot wide two-way street, is the first public road inland of the sea (Exhibit #2).

On Friday, June 18, 2004, the City's Notice of Final Local Action for Local Coastal Development Permit No. 04-01 was received via first class mail in the Coastal Commission's South Coast District office in Long Beach. The Commission's ten working-day appeal period was established on Monday, June 21, 2004. On June 29, 2004, Commission staff received the first appeal from Robert and Linda Moffat. Subsequently, three more appeals (submitted by the Pietrinis, Kevin Farr and Shannon Gyuricza) were received prior to the end of the appeal period. The appeal period ended at 5 p.m. on July 2, 2004.

### **III. APPEAL PROCEDURES**

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits.<sup>2</sup> Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff [Coastal Act Section 30603(a)]. In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a "major public works project" or a "major energy facility" [Coastal Act Section 30603(a)(5)].

Section 30603(a)(1) of the Coastal Act identifies the proposed project site as being in an appealable area by virtue of its location. The proposed project is located between the sea and the first public road paralleling the sea, and within three hundred feet of the beach.

Section 30603 of the Coastal Act states, in part:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a coastal development permit application may be appealed to the Commission for only the following types of developments:
  - (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.
  - (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

The grounds for appeal of an approved local coastal development permit in the appealable area are stated in Section 30603(b)(1), which states:

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<sup>2</sup> The Commission effectively certified the City of Redondo Beach LCP on September 11, 2003. This appeal is the first locally approved coastal development permit in Redondo Beach to be appealed to the Commission.

(b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in this division.

The action currently before the Commission is to find whether there is a "substantial issue" or "no substantial issue" raised by the appeal of the local approval of the proposed project. Sections 30621 and 30625(b)(2) of the Coastal Act require a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds for appeal.

Commission staff recommends a finding of no substantial issue. If there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will schedule a de novo public hearing on the merits of the application at a subsequent Commission hearing. A de novo public hearing on the merits of the application uses the certified LCP as the standard of review. In addition, in order to approve a project located between the first public road and the sea, findings must be made that the application is consistent with the public access and recreation policies of the Coastal Act. Sections 13110-13120 of Title 14 of the California Code of Regulations ("14 CCR") further explain the appeal hearing process.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. [14 CCR § 13117]

The Commission will then vote on the substantial issue matter. It takes a majority of Commissioners present to find that the grounds for the appeal raise no substantial issue. The Commission's finding of substantial issue voids the entire local coastal development permit action that is the subject of the appeal.

#### **IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

The staff recommends that the Commission determine that **no substantial issue exists** with respect to the grounds cited for the appeal regarding conformity of the project with the City of Redondo Beach Local Coastal Program or the public access policies of the Coastal Act, pursuant to Public Resources Code Section 30625(b)(2).

Staff recommends a **YES** vote on the following motion:

**MOTION:** *"I move that the Commission determine that Appeal No. A-5-RDB-04-261 raises No Substantial Issue with respect to the grounds on which the appeal has been filed."*

The motion passes only by an affirmative vote by a majority of the Commissioners present. Passage of this motion will result in a finding of no substantial issue and adoption of the following resolution and findings. If the Commission finds no substantial issue, the Commission will not hear the application de novo and the local action will become final and effective.

**Resolution to Find No Substantial Issue for Appeal A-5-RDB-04-261**

The Commission hereby finds that Appeal No. A-5-RDB-04-261 does not present a substantial issue with respect to the grounds on which the appeals have been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access policies of the Coastal Act.

**V. FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

**A. Project Description**

Local Coastal Development Permit No. 04-01, approved by the Redondo Beach City Council on June 15, 2004, would permit the applicants to add a 23-foot high, 835 square foot second floor onto an existing thirteen-foot high, 1,673 square foot single-family residence on a 3,000 square foot lot situated on the upper part of the coastal bluff that overlooks the public beach (Exhibit #4). The existing one-story (with basement) house is on the seaward side of the improved public street (Esplanade) that currently provides vehicular access to the site (Exhibit #2). The existing two-car garage would be maintained within the ground floor of the house.

Esplanade, the first public street inland of the sea, runs along the top of the coastal bluff parallel to Redondo State Beach (Exhibit #1). The Esplanade right-of-way includes improved sidewalks for pedestrians and two-to-three automobile lanes. Esplanade is lined on both sides with multiple-unit and single-family residences, except south of Avenue A where the west (seaward) side of the street is devoid of structures (Exhibit #2). Expansive unobstructed public views of the shoreline are available from the Esplanade, south of Avenue A to the southern boundary of the City.

The project site, situated between the public beach and Esplanade, is part of a row of one- and two-story single-family homes that line the top of the bluff on the western edge of the densely developed residential neighborhood. Multi-unit residential buildings occupy most of the properties located on top of the bluff north of the site and immediately inland of the site. The height limit for the site, as set forth by the certified LCP, is thirty feet. The proposed residential addition, which extends 23 feet above the elevation of the fronting sidewalk (Esplanade), would obstruct part of the public's view of the sea from Knob Hill Avenue, but would not obstruct any public view from Esplanade or the public beach stairway that abuts the northern edge of the project site (Exhibit #2).

**B. Factors to be Considered in Substantial Issue Analysis**

Section 30625 of the Coastal Act states that the Commission shall hear an appeal of a local government action unless it finds that no substantial issue exists with respect to the grounds on which the appeal has been filed. The term "*substantial issue*" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it finds that the appeal raises no significant question as to conformity with the certified LCP or there is no significant question with regard to the public access policies of Chapter 3 of the Coastal Act. In previous decisions on appeals, the Commission has been guided by the following factors.

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5. Staff is recommending that the Commission find that **no substantial issue exists** for the reasons set forth below.

### **C. Substantial Issue Analysis**

As stated in Section III of this report, the grounds for appeal of a coastal development permit issued by the local government after certification of its Local Coastal Program (LCP) are specific. In this case, the local coastal development permit may be appealed to the Commission on the grounds that it does not conform to the certified LCP or the public access policies of the Coastal Act. The Commission must then decide whether a substantial issue exists in order to hear the appeal.

The primary issue raised by the appeals is the project's effect on the public's view of the sea. As previously stated, the proposed residential addition, which extends 23 feet above the elevation of the fronting sidewalk (Esplanade), would obstruct part of the public's view of the sea from Knob Hill Avenue, the public street that intersects with Esplanade in front (east) of the project site (Exhibit #2). As one approaches the western end of Knob Hill Avenue from the east, there is a public view above the roof of the existing one-story house that consists of sky and part of the sea. The appellants are objecting to the proposed second story because it would block more of this public view than is currently blocked by the existing single-story house. The proposed addition would not obstruct any public view from Esplanade, as the existing thirteen-foot high house already obstructs the public view of the sea and shoreline

from Esplanade. The public view of the shoreline from the public stairway that abuts the northern side of the project site would not be affected by the proposed project (Exhibit #2).

Although the proposed project would affect the public view of the sea from Knob Hill Avenue, Commission staff recommends a finding of no substantial issue for the following reasons:

1. The locally approved development conforms with the City of Redondo Beach certified LCP because the LCP allows two-story buildings and does not protect the public's view over the existing residential development along Esplanade.
2. The affected view of the sea over the rooftop of the existing residential development is not a significant public view or coastal resource, and the view is already partially obstructed by existing residential development.
3. The twenty-foot wide public accessway that abuts the northern side of the project site provides a view corridor through the existing line of residential development and provides the public with a high quality public viewing area.
4. The locally approved development conforms with the public access policies of the Coastal Act because the proposed project would not adversely affect existing coastal access, and adequate public access to the shoreline is provided on the public stairway that abuts the northern side of the project site.

### **LCP Policies**

The locally approved development conforms with the City of Redondo Beach certified LCP because the LCP contains no provisions that would protect the public's view over the existing residential development along Esplanade. The appellants, however, assert that the following provisions of the certified LCP identify and protect the public views of the shoreline in the Knob Hill area, where the project site is located:

#### ***Pedestrian Access (LCP ps. 60-61)***

*Pedestrian access to the shoreline, in the form of improved walkways and ramps both vertical and lateral, is provided throughout the Redondo Beach coastal zone....*

*An important part of the pedestrian system is the blufftop walkway. This walkway parallels the western perimeter of Esplanade Avenue on a coastal plain, fifty feet above the shoreline. The walkway extends north from the southern boundary of the coastal zone at Torrance City boundary to Knob Hill on the north. An unobstructed blufftop view of the ocean is provided to both pedestrian and automobile travelers along Esplanade. At Knob Hill, steps lead to a walkway midway between the shoreline and the blufftop walkway.*

#### ***Coastal Recreation (LCP ps. 78-79)***

*The entire Redondo Beach shoreline is under public ownership. As a result, access to recreational opportunities is very good. The City of Redondo Beach*

*offers a wide variety of coastal recreational opportunities including approximately 1.7 miles of public beach area, a blufftop walkway along the Esplanade to Knob Hill where pedestrian views of the beach are unhampered by residential development.*

***Beaches (LCP ps. 80-81)***

*...More than half of Redondo State Beach is open to direct public view from Esplanade which varies in elevation along its length and offers fine vantage points for viewing the beach and ocean. A major public access walkway extends south from the Pier complex to Knob Hill approximately half the distance of the beach.*

**LCP Policy Analysis**

The above-stated descriptive text from the certified LCP describes the project area, the blufftop walkway and the “*unobstructed blufftop view of the ocean*” along Esplanade, but the LCP does not refer to (or protect) any public view over the existing residential development on the project site. The public view from Esplanade at the project site has been totally obstructed by the existing thirteen-foot high house for more than fifty years.<sup>3</sup> Thus, the LCP states: “*More than half of Redondo State Beach is open to direct public view from Esplanade.*” That means about half of the view of the beach from Esplanade is obstructed by existing development.

Pedestrian views of the beach are obstructed by existing residential development on the Esplanade properties immediately north and south of the project site as well. As stated previously in this report, Esplanade runs along the top of the bluff parallel to Redondo State Beach, and is lined on both sides with multiple-unit and single-family residences, except south of Avenue A (and the project site) and where the seaward side of Esplanade is devoid of any structures (Exhibit #2). Only south of Avenue A to the southern boundary of the City are unobstructed public views of the shoreline available from the Esplanade.

Given the extensive and longstanding development along the seaward side of Esplanade north of Avenue A, the only interpretation of the LCP’s reference to an *unobstructed blufftop view* that makes sense is that the LCP is referring to the view available (from the blufftop walkway along Esplanade) two hundred feet south of the project site where there is no blufftop development along the seaward side of Esplanade to obstruct views of the shoreline (Exhibit #2). The certified LCP includes specific development standards that limit development seaward of Esplanade on the non-residential lots [See Municipal Code Sections 10-5.1100 through 10-5.1117 Public and Institutional Zones/Development Standards: P-PRO (Parks, Recreation & Open Space)]. Therefore, the certified LCP protects the existing shoreline view from Esplanade south of Avenue A from being obstructed by new development, but it does not protect the public’s view over the existing residential development along Esplanade.

The existing development on the seaward side of Esplanade includes the applicants’ home and several other homes. One of the houses on the seaward side of Esplanade (807 Esplanade), two lots south of the project site, has a second story addition that was approved by the Commission prior to the certification of the Redondo Beach LCP [Coastal Development Permit 5-03-008 (Cusick)]. All of these existing residences prevent the viewing of the shoreline from the blufftop walkway along Esplanade.

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<sup>3</sup> Los Angeles County Assessor records indicate that the blufftop house at 801 Esplanade was built in 1951.



The appellants quote the descriptive text of the certified LCP to support their assertion that the proposed development is inconsistent with the certified LCP. This is because the certified LCP, which allows a thirty-foot high house on the site, does not identify any protected view corridor over the project site. Although the implementing ordinances (LIP) portion of the certified LCP sets forth a statement of purpose that includes “maximize public access and public views of the coastline,” this statement of purpose cannot support a finding that this specific project violates the certified LCP [Municipal Code Section 10-5.102(b)]. The certified LCP, in non-residential areas of the City, is specific in regards to which public views are protected from development. For instance, the LCP requires that public views be considered when development is proposed in the Harbor-Pier area, but that is one mile north of the project site. Also, as previously stated, the LCP development standards for the P-PRO zone (Parks, Recreation & Open Space) protect the public views over the public open space situated seaward of Esplanade, south of Avenue A (Exhibit #1). Therefore, the certified LCP protects the existing shoreline view from Esplanade south of Avenue A from being obstructed by new development, but it does not protect the public’s view over the existing residential development along Esplanade.

In addition, the following Recreation Policies of the certified LCP protect the recreational facilities, such as coastal accessways, that provide the best shoreline views in the City:

- 1. All existing public recreational and visitor-serving facilities will be maintained, enhanced and preserved and, where possible, expanded.*
- 2. Lower-cost visitor-serving and recreational facilities will be protected, encouraged, and where possible, provided.*

Coincidentally, the public stairway that abuts the northern side of the project site is specifically identified and protected in the *Pedestrian Access* section of the certified LCP (ps.61 & LUP Table IX, p.62). The City record states that the twenty-foot wide public accessway was part of the lot at 801 Esplanade (project site) until the property owner granted it to the City sometime prior to the writing of the LCP. The City preserves and maintains this stairway as required by the certified LCP. In fact, the City is proposing to enhance the accessway next to the project site by removing the large ficus tree that currently interferes with shoreline views from Esplanade (Exhibit #6, p.8).

The certified LCP protects visual resources in other ways too. For example, the LCP building standards limit the height and bulk of buildings in order to protect the visual resources and character of Redondo Beach. In this case, the proposed 23-foot high addition complies with the thirty-foot height limit for the project area.

Two appeals (those submitted by the Pietrinis and Kevin Farr) also contend that the proposed project must be found to conform with the other Chapter 3 policies of the Coastal Act, and specifically Section 30251 which protects visual resources and public views of the ocean.

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The appellants assert that Section 30251 of the Coastal Act is adopted by reference as part of the certified Redondo Beach LCP because the certified LCP is intended to be consistent with, and be carried out in a manner fully in conformity with, the Coastal Act. They also point to Section 10-5.2218(a) of the implementing ordinances (LIP) portion of the certified LCP, which states:

*“Approval, conditional approval, or denial of any Coastal Development Permit by the City of Redondo Beach shall be based upon compliance of the proposal with the provisions of the certified Redondo Beach Local Coastal Program and consistency with the policies of the Coastal Act.”*

The above-stated section of the LIP requires that an approval of a local coastal development permit shall be based on compliance with the certified LCP and the policies of the Coastal Act. This, however, does not constitute a substantial issue, as the proposed project does not violate the provisions of the LCP or the policies of the Coastal Act, including Section 30251. The proposed project will affect the view of part of the sea over the rooftop of the existing residential development, but this view is not a significant public view or coastal resource, and the view is already partially obstructed by existing residential development. The proposed second story is compatible with the surrounding residential development, and a public accessway provides an excellent view of the shoreline only a few inches from the project site. Therefore, a superior public view of the shoreline is provided from the public accessway that abuts the project site, and the locally approved development is consistent with Section 30251 of the Coastal Act.

Next, the Pietrini appeal contends that the City failed to make the required coastal development permit finding that the proposed development, located between the first public road and the sea, is in conformity with the public access and recreation policies of the Coastal Act. In fact, the City Council did make the requisite finding that the approved development is in conformity with the public access and recreation policies of the Coastal Act [See City Council Findings for CDP No. 04-01 (Exhibit #6, p.4)]. Since the approved development is limited to the already improved private residential lot, there will be no adverse effect on public access or recreation. The City’s findings are correct and the appeals raise no substantial issue in this regard.

In any case, the certified LCP clearly identifies the project site for residential use with a thirty-foot height limit, and the LCP does not limit development to a single level in order to protect the public view over the rooftop. Therefore, the appeals raise no substantial issue in regards to the locally approved development’s conformity with the City of Redondo Beach certified LCP.

## **Public Access**

The appeals also do not raise a substantial issue in regards to the project's conformity with the public access policies of the Coastal Act.

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Maximum public access is provided at the project site. The applicants are not permitted to interfere with the public accessway that abuts the northern side of the project site during or subsequent to construction. The City Council findings state: "The public access is not impacted by the proposed development" (Exhibit #6, p.4). Additionally, the conditions of the local coastal development permit require that the site shall be fully fenced prior to the start of construction, and that the streets and sidewalks adjacent to job sites shall be clean and free of debris (Exhibit #6, ps.5-6). Therefore, the locally approved development conforms with the public access policies of the Coastal Act because the proposed project would not adversely affect existing coastal access, and adequate public access to the shoreline is provided on the public stairway that abuts the northern side of the project site.

## **CEQA**

One appellant (Kevin Farr) asserts that the City failed to comply with the requirements of the California Environmental Quality Act (CEQA) when it approved the project. It is not the Commission's role to resolve conflicts over CEQA compliance. The Commission has a limited appellate authority/jurisdiction as defined by Section 30625(b)(1). The Commission is not a judicial body of general jurisdiction, as its review is limited to assessing conformity with the certified LCP and Chapter 3 of the Coastal Act. The California Environmental Quality Act is not within Chapter 3. The Commission cannot accept an appeal on the grounds that the local government failed to comply with the requirements of CEQA. The grounds for appeal, as set forth by Coastal Act Section 30603(b)(1), are limited to an allegation that the development does not conform to the standards set forth in the certified LCP the public access policies of the Coastal Act. Therefore, the City's compliance with CEQA does not raise a substantial

issue of the sort that can justify the Commission's de novo review of the local coastal development permit.

### **The Five Factors**

Applying the five factors listed in the prior section further clarifies that the appeals raise no "substantial" issue with respect to the locally approved development's conformity with the City of Redondo Beach certified LCP and the public access policies of the Coastal Act, as it shows that the nature of the proposed project, the local government action, and the appeals do not implicate the LCP or public access policies to a level of significance necessary to meet the substantiality standard of Section 30625(b)(1).

The first factor is the degree of factual and legal support for the local government's decision that the development is consistent (in this case) with certified LCP and the public access policies of the Coastal Act. Although the appellants assert that the City's findings lack a factual basis and are not supported by substantial evidence, the contrary is true. The City Council used photographs of the existing development in order to determine the extent of the project's effect on the public view, and it used the standards set forth by the certified LCP to make its decision. The City Council also considered different alternatives to the proposed second story addition, including adding onto the ground floor on the western (seaward) part of the project site and denial of the addition altogether (Exhibit #6, p.2). The LCP's rear setback provisions disallow any new encroachment towards the beach on this blufftop lot, and the certified LCP includes no basis on which the City could support a denial of the proposed second floor addition. Also, since the project site is only thirty feet wide there is only one possible location for a new second floor. The City Council's consideration of the project's visual impacts and potential project alternatives provides the basis in fact and the legal support for its final decision. Ultimately, the determining factor in this case is whether the proposed project is consistent with the certified LCP and the public access and recreation policies of the Coastal Act, which it is (as explained above). Therefore, the City Council's conclusion regarding the consistency of the proposed development with the certified LCP is supported by substantial evidence and correct legal analysis.

This Commission's role at the "substantial issue" phase of an appeal is not to reassess the evidence in order to make an independent determination as to consistency of the project with the certified LCP and the public access and recreation policies of the Coastal Act, but only to decide whether the appeals of the local government action raise a substantial issue as to conformity with those standards. There is no question that the local decision correctly applied the certified LCP and the public access policies of the Coastal Act, and the appeals raise no substantial issue regarding conformity therewith.

The second factor is the scope of the development approved by the local government. Here, the proposed development approved by the local government is an addition to an existing single-family residence. This is a relatively minor project, especially in light of the fact that the existing house already obstructs the shoreline view from Esplanade, and the public access stairway provides excellent public access to the beach. Therefore, the scope of the development approved is minor, and the approval of the house addition does not rob the site of any resources or amenities promoted by the LCP or Chapter 3 of the Coastal Act.

The third factor is the significance of the coastal resources affected by the decision. The affected view of the sea over the rooftop of the existing development is not a significant public view or significant coastal resource, and the view is already partially obstructed by existing development. A significant public view, unaffected by the proposed development, is available from the public accessway that directly abuts the project site (Exhibit #2).

The fourth factor is the precedential value of the local government's decision for future interpretations of its LCP. This factor is applied in order to avoid leaving decisions in place that could create a negative precedent for how the relevant provision of the LCP is to be interpreted. The local government's decision does have precedential value, since it is one of the first local coastal development permits approved by the City, and it is the first decision to be appealed to the Commission. Also, there are several other existing one-story homes along the seaward side of Esplanade in the project area, some of which could soon be applying for second floor additions that have a similar effect on the public's view of the sea that exists over the current rooftops. Therefore, it is important that the certified LCP be interpreted in the correct manner in regards to the right of homeowners in this neighborhood to build up to the thirty-foot height limit set forth by the certified LCP.

However, as is explained above, the City's decision to approve the proposed second floor correctly interprets the certified LCP as it applies to the project site. In addition, it is also consistent with prior Commission precedent. A recent Commission action (6/23/03)<sup>4</sup> approved the addition of a new second floor to the existing house at 807 Esplanade [Coastal Development Permit 5-03-008 (Cusick)]. This Commission-approved house addition has been built, and the resulting two-story residence has a greater impact on the public view than a one-story house (because it is now a larger building). Of course, whether one or two stories in height, each house on the seaward side of Esplanade already prevents the viewing of the shoreline from the Esplanade blufftop walkway. In addition, most other similarly situated properties at the western ends of the other east/west City streets that intersect with Esplanade (e.g. Topaz, Sapphire and Ruby Streets) are already developed with multi-story buildings that obscure the public's view of the shoreline from Esplanade (Exhibit #1). Therefore, the City's decision in this case to approve the proposed second floor addition is the correct decision, and the denial of the appeals supports the precedential value of the local government's decision for future interpretations of its LCP.

The final factor is whether the appeal raises local issues, or those of regional or statewide significance. This appeal raises an extremely localized issue related to this particular site and neighborhood, but it does not raise any issues of regional or statewide significance.

## **Conclusion**

In conclusion, the proposed development and the local coastal development permit for the proposed development conform to the requirements of the City of Redondo Beach certified LCP and the public access policies of the Coastal Act. The local approval of the proposed project does not violate any view protection provisions of the certified LCP or the public access policies of the Coastal Act. Therefore, the Commission finds that the appeals raise **no**

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<sup>4</sup> The City of Manhattan Beach did not obtain coastal development permit-issuing authority, pursuant to its certified LCP, until September 11, 2003.

**substantial issue** in regards to the locally approved development's conformity with the City of Redondo Beach certified LCP and the public access policies of the Coastal Act.